

EXHIBIT E

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J. PARK
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
Case No.: 1:19-cv-01017-PKC-PK
-----x
EBIN NEW YORK, INC.,
Plaintiff,
-against-
SIC ENTERPRISE, INC.; CLEO BEAUTY; JOHN DOES 1-10
(said names being fictitious); and JOHN ROE CORPS.
1-10 (said names being fictitious),
Defendants.
-----x
30 Rockefeller Plaza
New York, New York
November 18, 2021
9:30 a.m.
EXAMINATION BEFORE TRIAL OF JOON S. PARK,
in an individual capacity, appearing at the
above-mentioned time and place before ANNMARIE
OAKLEY, a Notary Public of the State of New York.

1 J. PARK

2 products targeted for African American women are
3 located, right?

4 A Yes.

5 Q And what -- in terms of the amount of
6 product for African American woman versus everybody
7 else what's the size difference of the products? I
8 mean, number of the products is what I'm referring
9 to.

10 A I think it's upside down that it's
11 probably, like, 10 to 15 percent, 10%, and 90% for
12 just general customer, just for everybody, yes, in
13 like a merchant account, like national chain
14 account.

15 Q I want to make sure we get this, so about
16 10% in a national chain store, mass merchant,
17 haircare products are directed towards African
18 American women and the other 90% is for everybody
19 else?

20 A Yes.

21 Q Other than 24 Hour Edge Tamer, the 2.7
22 product, Edge Booster, Edge Effect and Edge Boss,
23 are you aware of any other products in the haircare
24 industry that use a double layer container? And I'm
25 not limiting it to products directed to African

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American women?

MR. MEOLA: I'm going to object. It assumes facts not in evidence and it's vague.

A Can you translate.

(The translator interpreted the question.)

A Yes, there's the Edge Fixer.

Q Who makes Edge Fixer?

A By Kiss, K-i-s-s product.

Q Any others that you can think of?

A I don't know.

Q When did you first learn of Edge Fixer?

A I think they launched in 2020.

Q Have you ever seen an Edge Fixer product?

A Yes.

Q Is the double layer container the same or similar to the double layer container that EBIN uses?

A Yes.

Q Does it differ in any respect?

A Is it there any difference?

Q Yeah. Are there any differences between the Edge fixer product container and the 2.7 ounce EBIN container?

1 J. PARK

2 A No.

3 Q Has EBIN sent Kiss a cease and desist
4 letter to tell them not to use the double layer
5 container?

6 A No.

7 Q Why not?

8 A I will finish with SIC case first.

9 Q Do you believe that the Edge fixer product
10 violates EBIN's rights in the 2.7 ounce container?

11 MR. MEOLA: Objection. Calls for a legal
12 conclusion.

13 A Yes.

14 MR. MEOLA: You can answer.

15 A Yes.

16 Q Do you believe that customers -- remember
17 we defined customers as people that actually buy it,
18 the end consumer, do you believe that customers can
19 tell the difference between EBIN's 2.7 ounce product
20 and the Edge Fixer product by Kiss?

21 MR. MEOLA: Objection. Calls for
22 speculation.

23 A Can you translate, please.

24 (The translator interpreted
25 the question.)

1 J. PARK

2 Q Why is that?

3 A This product is not sold to the retailers
4 for African American females.

5 Q How do you know that?

6 A I never seen it.

7 Q Any other reason?

8 A No.

9 Q If you could take a look at page 47,
10 number 429.

11 A Yes.

12 Q And there's a product depicted, Edge Fixer
13 Glued. Do you see that?

14 A Yes.

15 Q Would you agree that this product is using
16 a double layer container?

17 A Yes.

18 Q And would you agree this is a haircare
19 product?

20 A Yes.

21 Q Would you agree that this product is used
22 or targeted to African American women?

23 A Yes.

24 Q Is it considered an Edge Control type
25 product?

1 J. PARK

2 A Yes.

3 Q Do you believe that the container for the
4 Edge Fixer product is too close to the container for
5 the 2.7 ounce product?

6 MR. MEOLA: Objection. Vague.

7 A Yes.

8 Q Is this the Kiss product, a picture of the
9 Kiss product, the Edge Fixer product?

10 A Yes.

11 Q Take a look at page 49 and 49 depicts a
12 purple version of the True Edge controller product,
13 would you agree with that?

14 A Yes.

15 MS. PIETRINI: I'm going to mark as 58 a
16 product entitled JE Joyous Essentials edge control
17 product.

18 (JE Joyous product was
19 introduced as Exhibit 58.)

20 THE WITNESS: Is this the last question.

21 MS. PIETRINI: I have a couple more.

22 MR. MEOLA: Log an objection. It has not
23 been previously disclosed.

24 Q What we have shown you in Exhibit 58 would
25 you agree that product is in a double layer

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1 J. PARK

2 A Did EBIN what?

3 Q Was there anything that prevented EBIN
4 from sending a cease and desist letter to SIC before
5 2019?

6 A Translate, please.
7 (Translator interpreted the
8 question and answer.)

9 A Could you ask the question again. I'm
10 confused.

11 Q Okay. Maybe I will ask it a different
12 way. That might help. Could EBIN afford to pay a
13 lawyer to send a cease and desist letter before
14 February 2019?

15 A Yes.

16 Q Was EBIN's business doing well in terms of
17 sales before February 2018?

18 A Yes.

19 Q And I forget what you said, what year did
20 you first have in-house counsel at EBIN?

21 A 2020.

22 Q Is it in your opinion is it easier to
23 change packaging for a product shortly after the
24 product is released to the market versus if it's
25 been on the market for a while?

1 J. PARK

2 products stopped being sold as of 2016?

3 A That is correct.

4 Q And then what about the product up top, by
5 itself, is that one of the products that was also
6 stopped in 2016?

7 A No. It's a new packages.

8 Q So the 24 Hour Edge Tamer depicted by
9 itself was still being sold as of February 2019,
10 right?

11 A Yes, until now. Yes.

12 Q And the products shown below, the gray,
13 orange and yellow those had stopped being sold as of
14 2016?

15 A Yes.

16 Q And when you state in the -- or not you.
17 When your attorney states in the second paragraph
18 "EBIN has recently become aware of hair products,
19 gels and pomades owned and sold by SIC under the
20 trademark Edge Booster." Isn't it true that EBIN
21 had known about the Edge Booster products for two
22 and a half years before it sent this letter?

23 A Yes.

24 Q And then looking at page three, the letter
25 says at the top of the paragraph and the second line

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2 we're back on the record.

3 (Fran replaced Ms. Joseph as
4 the interpreter.)

5 Q Before we broke for lunch I asked you why
6 did EBIN wait two and a half years before sending a
7 cease and desist letter to SIC and you mentioned
8 something that you learned about Edge Effect and
9 Edge Boss and that SIC had sued them that prompted
10 you to send the cease and desist letter. Had SIC
11 not sued Edge Effect or Edge Boss would you still
12 have sent the cease and desist letter?

13 INTERPRETER: Interpreter having a hard
14 time hearing.

15 MR. MEOLA: Fran, Mr. Park is going to
16 answer in English when he can and ask you to
17 translate when he needs. Do you understand the
18 question?

19 THE WITNESS: Yes, I do.

20 A I mean, ask it again. Sorry.

21 Q It's okay. If SIC had not sued Edge
22 Effect or Edge Boss would EBIN still have sent the
23 cease and desist letter?

24 A Yes.

25 Q I'm going show you what's been previously

1 J. PARK

2 marked as Exhibit six and can you tell me if if you
3 recognize this document.

4 A Yes.

5 Q And what was the purpose of Exhibit 6?
6 Let me back up. What is Exhibit 6?

7 A Well, letting our retailers know that EBIN
8 has, we have sued SIC for infringing EBIN's
9 privilege, right of privilege.

10 Q Why did EBIN want to let the retailers
11 know that it had sued SIC based on the Edge Booster
12 products?

13 A Because there's a rumors that SIC sued
14 Edge Boss and Edge Effect and all other companies,
15 that is, that has similar types of product. So we
16 let retailers know that EBIN has a right of 2.7
17 ounces and, again, so we informed that retailers
18 about the lawsuit so they understand, you know, it's
19 not a rumor it's actually what's going on.

20 Q Who wrote this notice?

21 A It's been prepared by legal counsel from
22 KCL.

23 Q KCL is an outside law firm?

24 A Yes.

25 Q That's the law firm that Joshua Lim

1 J. PARK

2 (phonetic) works at?

3 A Yes.

4 Q And I, of course, am looking at the
5 English version of the letter, on 20898 page, when
6 it states EBIN New York legal and counseling
7 department the company is referring to it's outside
8 counsel?

9 A Yes.

10 Q Because as of February 2019 EBIN did not
11 have in-house lawyers?

12 A Yes.

13 Q Was this notice sent to all retail
14 accounts of EBIN?

15 A All retail accounts that EBIN has a
16 business with.

17 Q It was sent to all retail accounts that
18 EBIN had business with whether they were selling the
19 Edge Booster products in addition to EBIN products?

20 A We are not knowing that they carry Edge
21 Booster or not but we are sending our EBIN's
22 retailers not knowing they carry Edge Booster
23 product or not.

24 Q How was it this notice delivered to all of
25 EBIN's retailers?

1 J. PARK

2 A These are mailed it out or when EBIN sales
3 people visit the store in their territory they print
4 this out and handout to the manager or owners of the
5 retailers.

6 Q Is it your understanding that all of
7 EBIN's retailers got a copy of this notice, Exhibit
8 6, either by mailing or someone gave them a copy?

9 A Yes.

10 Q And at that time in 2019, February 2019,
11 how many retail accounts did EBIN have
12 approximately?

13 A About 3,000 doors.

14 Q A door in what you're to as a door is an
15 account?

16 A Yes.

17 Q Did you or anyone else at EBIN track --
18 let me back up. You said you sent to all of the
19 3,000 accounts, did any retailers respond to this
20 notice?

21 A What do you mean by "respond"?

22 Q Write to EBIN or call anyone at EBIN and
23 say what's the deal with this notice.

24 A No.

25 Q Did you personally deliver any of these

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C E R T I F I C A T E

I, ANNMARIE OAKLEY, a Shorthand Reporter
and Notary Public within and for the State of
New York, do hereby certify:

THAT JOON S. PARK, the witness whose
deposition is herein before set forth, was duly
sworn by me, and that such deposition is a true
record of the testimony given by such witness.

I further certify that I am not related to
any of the parties to this action by blood or by
marriage and that I am in no way interested in the
outcome of this matter.

IN WITNESS THEREOF, I have hereunto set my hand this
18th day of November, 2021.



ANNMARIE OAKLEY